

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT INDIANA

MALIBU MEDIA, LLC,)
Plaintiff,) Civil Case No. 1:13-cv-00205-WTL-MJD
v.)
KELLEY TASHIRO,)
Defendant.)

**PLAINTIFF'S SECOND MOTION FOR EXTENSION OF TIME TO
RESPOND TO DEFENDANT'S MOTION TO BAR TESTIMONY OF
IPP [CM/ECF 60], MOTION FOR AN ORDER TO SHOW CAUSE
[CM/ECF 62], AND MOTION TO COMPEL [CM/ECF 64]**

Plaintiff, Malibu Media, LLC ("Plaintiff"), by and through undersigned counsel hereby moves for the entry of an order allowing Plaintiff a brief second extension to respond to Defendant Kelley Tashiro's ("Defendant") Motion to Bar Testimony of IPP [CM/ECF 60], Motion for an Order to Show Cause [CM/ECF 62], and Motion to Compel [CM/ECF 64], and in support states:

1. On January 13, 2014, Defendant filed her Motion to Bar Testimony of IPP [CM/ECF 60] and Motion for an Order to Show Cause [CM/ECF 62]. On January 20, 2014, Defendant filed her Motion to Compel [CM/ECF 64] (collectively, the "Motions"). Pursuant to this Court's Order Granting Plaintiff's first extension of time, responses for all the Motions are due today, February 6, 2014.

2. Plaintiff seeks a brief second extension because undersigned is unable to complete the responses and other important work required in the allotted time frame. Significantly, Plaintiff has a pending case in the Northern District of Illinois against this same defense counsel who has filed nearly identical motions. *Malibu Media, LLC v. John Doe subscriber assigned IP*

address 24.14.81.195, 1:13-cv-06312, (N.D.Ill., September 4, 2013). Undersigned and other legal professionals, working on behalf of Plaintiff, have collectively spent well in *excess* of two hundred (200) hours in the last two weeks on the work associated with these two matters. The Northern District of Illinois has since granted Plaintiff an extension of up to and including February 12, 2014 to respond and granted Defendant until March 5, 2014 to file a reply. *Malibu Media, LLC v. John Doe subscriber assigned IP address 24.14.81.195, 1:13-cv-06312, [CM/ECF 35]* (N.D.Ill., September 4, 2013).

3. Additionally, Plaintiff's Expert Report is due on February 10, 2014. Plaintiff is presently working on the report and anticipates that it will be timely completed.

4. Plaintiff has not been dilatory in its obligations. To the contrary, despite its best efforts and diligence, Plaintiff is simply unable to complete its responses to the Motions and the other important work required in this and its other cases by today.

5. Good cause exists to grant this motion. Indeed, the issues raised in the Motion to Bar Testimony, Motion for Sanctions, and Motion to Compel have not been raised in any other of the numerous cases that Plaintiff has litigated.

6. Consequently, Plaintiff has performed extensive research.

7. Significantly, Plaintiff has found applicable Seventh Circuit precedents which were not cited by Defendant and which control the resolution of many of the issues raised in the motions.

8. Plaintiff is in the process of drafting its memoranda in opposition. The law and facts cited therein will assist this Court in writing an opinion of first impression in Plaintiff's cases.

9. This enlargement is being requested solely to ensure that Plaintiff's memoranda properly apprises this Court of the applicable law and facts. Doing so is needed so that this Court may reach a correct legal conclusion.

10. Plaintiff will be able to complete its memoranda in opposition by February 12, 2014.

11. Plaintiff conferred with Defendant regarding the relief requested herein, but no consensus could be reached.

12. This request is made in good faith and not for the purpose of undue delay. Defendant would not be prejudiced by granting this Motion and Plaintiff does not object to extending the deadline for Defendant to file her replies.

WHEREFORE, Plaintiff respectfully requests that the time within which it has to comply with this Court's order [CM/ECF 68] be extended up to and including February 12, 2014. A proposed order is attached for the Court's convenience.

Dated: February 6, 2014

Respectfully submitted,

NICOLETTI & ASSOCIATES, PLLC

By: /s/ Paul J. Nicoletti
Paul J. Nicoletti, Esq. (P44419)
36880 Woodward Ave, Suite 100
Bloomfield Hills, MI 48304
Tel: (248) 203-7800
Fax: (248) 203-7801
E-Fax: (248) 928-7051
Email: paul@nicoletti-associates.com
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on February 6, 2014, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

By: /s/ Paul J. Nicoletti

SERVICE LIST

Jonathan LA Phillips
Shay Kepple Phillips, Ltd.
Twin Towers Plaza
456 Fulton Street, Suite 255
Peoria, IL 61602
jphillips@skplawyers.com
Attorney for Defendant Kelley Tashiro